



INTERIOR BOARD OF INDIAN APPEALS

Estate of Irene C. Poolaw

39 IBIA 153 (10/02/2003)

Related Board cases:

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United States Department of the Interior

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ESTATE OF IRENE C. POOLAW : Order Affirming Decision
:
: Docket No. IBIA 03-126
:
: October 2, 2003

Appellant Donald R. Poolaw seeks review of a June 10, 2003, order denying rehearing issued by Administrative Law Judge Richard L. Reeh in the estate of Decedent Irene C. Poolaw. IP OK 306 P 00-1. Although this case has not been briefed, the Board of Indian Appeals (Board) finds that Appellant's allegations, even if given the benefit of every doubt, do not show that the Judge committed any error. ^{1/} Under these circumstances, the Board sees no good reason for delaying final resolution of this estate. For the reasons discussed below, the Board affirms the Judge's decision.

When it received Appellant's notice of appeal, the Board found that the notice did not show that Appellant had served interested parties and did not allege any error in Judge Reeh's decision. It gave Appellant an opportunity to serve parties and to state how he believed the Judge had erred.

The Board received Appellant's response on September 22, 2003. Appellant stated that he had served interested parties with both his notice of appeal and his response. Based on this representation, the Board finds that Appellant has served interested parties.

Substantively, Appellant's response adds little to the information which he presented in his notice of appeal. He asserts that Sandra Bointy incorrectly stated that she was not related to the Poolaw family. The Judge's June 10, 2003, order states that Bointy, who was a BIA employee at the time, served as the notary public for Decedent's January 20, 2000, will. For purposes of this order only, the Board presumes that Appellant is correct in stating both that Bointy is related to the Poolaw family and that this relationship was not disclosed.

^{1/} Cf., e.g., Estate of Herbert Bartlett Levering, 37 IBIA 89 (2001); Estate of Calvin Leroy Leighton, 36 IBIA 215 (2001).

Appellant does not state why he believes the existence of a family relationship between Decedent and the person who notarized the signatures on her will would result in error in the Judge's decision. Although not required to make an appellant's arguments for him, 2/ for purposes of this decision, the Board presumes that Appellant's argument is that the existence of a family relationship would disqualify Bointy from serving as the notary public for Decedent's will. However, there is nothing in the laws, regulations, or case law governing Indian probate proceedings that provide that a person who is related to an Indian testatrix cannot serve as a notary public for that testatrix' will. The Board finds that, even if Bointy was related to Decedent, that fact does not have a bearing on the validity of Decedent's will.

Appellant also contends that Bointy, Briana Obe, and Carol Poolaw worked together at BIA. Without providing any specifics, he asserts that his rights under the Privacy Act, 5 U.S.C. § 552a, were violated through this employment relationship.

The Board has no investigatory or review role in regard to allegations of Privacy Act violations. If Appellant believes that his rights under the Privacy Act have been violated, he should pursue whatever remedy he believes he has under that Act and/or the regulations of the Department of the Interior implementing that Act. See 43 C.F.R. Part 2, Subpart D.

The Board restricts its discussion of Appellant's Privacy Act argument to the present probate context. Appellant's argument would be relevant only if there was a relationship between a violation of his rights under the Privacy Act and the execution of Decedent's will. However, Appellant has not only failed to show that any violation of his rights occurred, but has also failed to show that a violation of his rights would in any way relate to the execution of Decedent's will. Although Carol Poolaw received certain property under Decedent's will, the Board finds that this fact, even when coupled with an employment relationship between Carol Poolaw and the person who served as the notary public for Decedent's will, is not grounds to invalidate Decedent's will.

2/ Cf., e.g., Estate of Jeanette Little Light Adams, 39 IBIA 32, 39 (2003); Security State Bank, Dunseith, North Dakota v. Director, Office of Economic Development, 33 IBIA 225, 233 n.9 (1999) ("The Board has no obligation to make an appellant's argument for it. E.g., Elliott v. Portland Area Director, 31 IBIA 287, 293 (1997), and cases cited therein. In this case, however, the Bank's discussions are so unfocussed that the Board is unable to address this appeal at all without first attempting to deduce the Bank's meaning. To the extent the Board has failed in this attempt, the Bank has no one to blame but itself").

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, Judge Reeh's June 10, 2003, order denying rehearing is affirmed.

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

Kathleen R. Supernaw
Acting Administrative Judge